

Wednesday, April 1, 2009

House Meets At...	Votes Predicted At...
10:00 a.m. For Legislative Business Fifteen "One-minutes" Per Side	Last vote: 8:00 – 9:00 p.m.

Any anticipated Member absences for votes this week should be reported immediately to the Office of the Majority Whip at 226-3210.

### Floor Schedule and Procedure

- **H. Res. 306 – Rule providing for consideration of H.R. 1664 – To amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards (Rep. Perlmutter–Rules):** The structured rule provides for one hour of general debate on the bill to be equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Financial Services. The rule further provides that the amendments made in order may be offered only in the order printed in the report from the Committee on Rules accompanying the resolution (*a list of the amendments is also located in the "Bill Summary & Key Issues" section of today's Daily WhipLine*). These amendments may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. The rule also provides for one motion to recommit the bill with or without instructions, Debate on the rule will be managed by Rep. Perlmutter, and consideration will proceed as follows:
  - One hour of debate on the rule.
  - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to VOTE YES.**
  - Vote on adoption of the rule. **Democrats are urged to VOTE YES.**

- **H.R. 1664 – To amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards (Reps. Grayson/Himes – Financial Services)**: Pursuant to the rule, general debate on the bill will be managed by Financial Services Committee Chair Rep. Barney Frank. Debate on the bill will proceed as follows:
  - One hour of general debate on the bill.
  - Debate and possible recorded votes on amendments to the bill.
  - Possible debate and vote on Republican motion to recommit the bill.
  - Vote on passage of the bill. **Democrats are urged to VOTE YES.**
  
- **H. Res. 307 – Rule providing for consideration of H.R. 1256 – Family Smoking Prevention and Tobacco Control Act (Rep. Polis – Rules)**: The structured rule provides for one hour of general debate on the bill to be equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Energy & Commerce. The rule further Provides that the amendment printed in part A of the Rules Committee report accompanying the resolution shall be considered as adopted and the bill, as amended, shall be considered as read. Makes in order the amendment in the nature of a substitute printed in part B of the Rules Committee report accompanying the resolution if offered by Rep. Buyer of Indiana or his designee (*a list of the amendments is also located in the “Bill Summary & Key Issues” section of today’s Daily WhipLine*). Provides that the amendment made in order shall be considered as read and shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent. The rule also provides for one motion to recommit the bill with or without instructions. In the engrossment of H.R. 1256, the text of H.R. 1804, as passed by the House, shall be added as new matter at the end of H.R. 1256. Provides that H.R. 1804 shall be laid on the table. Debate on the rule will be managed by Rep. Polis, and consideration will proceed as follows:
  - One hour of debate on the rule.
  - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to VOTE YES.**
  - Vote on adoption of the rule. **Democrats are urged to VOTE YES.**

- **H.R. 1256 – Family Smoking Prevention and Tobacco Control Act (Rep. Waxman – Energy & Commerce)**: Pursuant to the rule, general debate on the bill will be managed by Energy & Commerce Committee Chair Rep. Henry Waxman. Debate on the bill will proceed as follows:
  - One hour of general debate on the bill.
  - Possible debate and recorded vote on Republican amendment in the nature of a substitute.
  - Possible debate and vote on Republican motion to recommit the bill.
  - Vote on passage of the bill. **Democrats are urged to VOTE YES.**
  
- **H. Res. 305 – Rule providing for consideration of H. Con. Res. 85 – Concurrent Resolution on the Budget for Fiscal Year 2010 (Rep. McGovern–Rules)**: The general debate rule provides four hours of general debate, with three hours equally divided and controlled by the chair and ranking minority member of the Committee on the Budget and one hour on the subject of economic goals and policies equally divided and controlled by Representative Maloney of New York and Representative Brady of Texas or their designees. The rule further provides that no further consideration shall be in order except pursuant to a subsequent order of the House. Debate on the rule will be managed by Rep. McGovern, and consideration will proceed as follows:
  - One hour of debate on the rule.
  - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to VOTE YES.**
  - Vote on adoption of the rule. **Democrats are urged to VOTE YES.**
  
- **Begin Consideration of H. Con. Res. 85 – Concurrent Resolution on the Budget for Fiscal Year 2010 (Rep. Spratt – Budget)**: Pursuant to the rule, three hours of general debate on the concurrent resolution will be managed by Budget Committee Chair Rep. John Spratt. One additional hour of general debate will be managed by Joint Economic Committee Chair Rep. Carolyn Maloney. Debate on the concurrent resolution will proceed as follows:
  - Four hours of general debate on the concurrent resolution.
  
- **Dispose of H.Res. \_\_\_\_\_ - Raising a question of the privileges of the House (Rep. Flake – Privileged Resolution)**

- **Suspension Bills:** Today, the House will consider several bills on the Suspension calendar. Bills considered on the Suspension calendar are debatable for 40 minutes; may not be amended; and require a two-thirds vote for passage. If a recorded vote is requested, it will be postponed.
  1. **H.R. 1804** - The Federal Retirement Reform Act of 2009 (Rep. Towns – Oversight and Government Reform)
  2. **H.R. 1575** - End Government Reimbursement of Excessive Executive Disbursements (End GREED) Act, as Amended (Rep. Conyers – Judiciary)
  3. **H.Res. 298** - Congratulating the on-premise sign industry for its contributions to the success of small businesses (Rep. King (IA) – Small Business)
  
- **Postponed Suspension Vote:**
  1. **H.Res. 290** - Honoring the lives and mourning the loss of Sergeant Mark Dunakin, Sergeant Ervin Romans, Sergeant Daniel Sakai, and Officer John Hege, Members of the Oakland Police Department in California who were brutally slain in the line of duty (Rep. Lee (CA) – Judiciary)

## **Bill Summary & Key Issues**

### **SUMMARY OF H.R. 1664 – TO AMEND THE EXECUTIVE COMPENSATION PROVISIONS OF THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008 TO PROHIBIT UNREASONABLE AND EXCESSIVE COMPENSATION AND COMPENSATION NOT BASED ON PERFORMANCE STANDARDS**

H.R. 1664 would prohibit an institution that has received a direct capital investment under the TARP or the Housing and Economic Recovery Act (which covers Fannie Mae, Freddie Mac and the Federal Home Loan Banks), while that investment remains outstanding and regardless of when a compensation payment arrangement was entered into, from paying any executive or employee:

- any compensation that is “unreasonable or excessive,” as defined in standards established by the Treasury Secretary; or
- any bonus or other supplemental payment that is not directly based on performance-based standards set by the Treasury Secretary.

Longevity bonuses and payments in the form of restricted stock are specifically exempt from these provisions.

The bill would require the Treasury Secretary to consult with the Chairperson of the Congressional Oversight Panel and obtain approval of the agencies that are members of the Federal Financial Institutions Examination Council before defining unreasonable or excessive compensation and establishing performance-based measures.

H.R. 1664 also would provide that the restrictions on bonuses of top executives of TARP recipients adopted in the American Recovery and Reinvestment Act would apply while a direct capital investment under TARP remains outstanding, regardless of when the arrangement to pay such bonus was entered into.

Finally, the bill would require a financial institution that is subject to the new compensation requirements to submit an annual report to the Treasury Secretary stating how many executives and employees received or will receive total compensation above specified dollar amounts during the fiscal year.

**Amendments to H.R. 1664 – To amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards**

1. **Frank (MA)**, Would provide further clarification that an institution does not become subject to the limitations on compensation in this bill as a result of doing business with an institution that has received a direct capital investment under either the TARP or HERA. Would exempt severance pay from coverage if the payment is made in the ordinary course to an employee who has been with the institution at least 5 years prior to dismissal, as long as that payment is not greater than the employee's annual salary or \$250,000. Would require the compensation data that an institution must report annually to the Treasury to include contributions made for the benefit of an employee's immediate family members. Would create a Commission on Executive Compensation to study the executive compensation system for recipients of direct capital investments under the TARP and make recommendations for legislative and regulatory action.  
(20 minutes)
2. **Cardoza (CA)**, Would allow the Treasury Secretary to exempt financial institutions receiving TARP funds under a certain threshold.  
(10 minutes)
3. **Meeks, Gregory (NY)**, Would exempt from compensation standards any institutions that receive TARP funding or payment agreements entered into before the enactment of this bill.  
(10 minutes)

4. **Bean (IL)/McMahon (NY)**, Would allow institutions that enter into a payment schedule with Treasury on terms set by Treasury to no longer be subject to the bonus and compensation restrictions created by the Act. If an institution defaults on its payment schedule, any bonuses and compensation that exceeds the regulations promulgated in accordance to the Act would be subject to clawback.  
(10 minutes)
5. **Bilirakis (FL)**, Would clarify that an institution that is not a TARP recipient will not be subject to the requirements of the bill as a result of doing business with a TARP recipient.  
(10 minutes)
6. **DeFazio (OR)**, Would amend the Emergency Economic Stabilization Act of 2008 to make the shareholder vote on executive compensation packages binding upon the board of directors.  
(10 minutes)
7. **Dahlkemper (PA)**, Would clarify the definition of executive compensation to include payments made before, during and after employment, and would make explicit that the definition of compensation considered under the standards to be prepared by the Secretary to include payment of money, transfers of property or provision of services.  
(10 minutes)

### **SUMMARY OF H.R. 1256 – FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT**

H.R. 1256 amends the Federal Food, Drug, and Cosmetic Act (FFDCA) to grant the Food and Drug Administration (FDA) authority to regulate the advertising, marketing, and manufacturing of tobacco products. H.R. 1256 passed the House in 2008 by a vote of more than three to one, and it has the support of over 1,000 public health, faith, and other organizations from around the country, including the American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, and the Campaign for Tobacco-Free Kids. The legislation:

**Reinstates FDA's 1996 Rule** – H.R. 1256 requires that the FDA's 1996 Rule, restricting tobacco marketing and sales to youth take effect within one year of enactment. The regulation:

- Bans all outdoor tobacco advertising within 1,000 feet of schools and playgrounds;
- Bans all remaining tobacco-brand sponsorships of sports and entertainment events;
- Bans free giveaways of any non-tobacco items with the purchase of a tobacco product;

- Limits to black-and-white text only advertising in publications with significant teen readership, as well as outdoor and point-of sale advertising except in adults-only facilities;
- Restricts vending machines and self-service displays to adult-only facilities; and
- Requires retailers to verify age for all over-the-counter sales and provides for Federal enforcement and penalties against retailers who sell to minors.

**Grants FDA specific authority to restrict tobacco marketing** -- FDA is given authority to develop regulations that restrict on the advertising and promotion of a tobacco product consistent with, and to the full extent permitted by, the first amendment to the Constitution.

**Requires detailed disclosure of tobacco product ingredients** -- Tobacco companies would be required to disclose to the FDA the ingredients in each tobacco product, giving the Agency the information needed to begin reducing the harm caused by tobacco products and educating the public about the health effects of tobacco use.

**Allows FDA to require changes to tobacco products to protect the public health** -- FDA would be granted authority to require changes in current and future tobacco products to protect public health, such as the reduction or elimination of harmful ingredients, additives and constituents, including menthol. FDA would be granted authority to reduce nicotine, but would not be allowed to require the reduction of nicotine in a tobacco product to zero or to ban a class of tobacco products.

**Strictly regulates “reduced harm” products** – H.R. 1256 prohibits the use of descriptors, such as “light”, “mild”, and “low” on labels or in advertising. FDA could review the marketing of such products and determine if the applicant demonstrates that the product, as actually used by consumers, will significantly reduce harm and the risk of tobacco-related diseases to individual tobacco users and benefit the health of the population as a whole – taking into account both users of tobacco products and persons who do not currently use tobacco products.

**Requires larger, more specific health warnings** – H.R. 1256 requires health warnings to cover the top 30% of the front and rear panels of the package and gives FDA the authority to require graphic warning labels that cover 50% of the front and rear panels of the package. The Secretary could revise labeling requirements, including text and format size. The same warning labels would be required in advertising and must comprise 20% of the advertisement’s area.

**Fully funds FDA tobacco activity through a user fee on tobacco manufacturers** -- All tobacco-product-related FDA costs are allocated among the manufacturers of cigarettes, cigarette tobacco, and smokeless tobacco products sold in the United States, based on the manufacturers' respective shares of the entire U.S. market.

## **Amendments to H.R. 1256 – Family Smoking Prevention and Tobacco Control Act**

1. **Part A - Amendment *CONSIDERED AS ADOPTED*** - adds language making clear that the report required by section 907(e) will examine the impact of the use of menthol in cigarettes among children. It makes technical corrections to fully integrate new tobacco provisions contained in the bill into the Federal Food, Drug, and Cosmetic Act. It adds language clarifying application of the bill's provisions to exported tobacco products. It adds language making clear that the Secretary should consult as appropriate with the Departments of Treasury and Justice in carrying out section 301 of the bill. Finally, it strikes Title IV of the bill (relating to TSP and other federal programs).  
*(no debate on this amendment)*
2. **Part B - Buyer Republican substitute amendment** - amendment in the nature of a substitute would create a Tobacco Harm Reduction Center under the Department of HHS to regulate all tobacco products and establishes a regulatory scheme to provide for tobacco prevention, education, and cessation programs  
(30 minutes)

## **SUMMARY OF H. CON. RES. 85 – CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010**

The 2010 Budget Resolution incorporates the four key priorities of the President's budget. It makes strategic investments in education, health care reform, and energy independence that are necessary to restore our crumbling economy and put the country in a position to remain globally competitive. It also takes the needed steps to restore fiscal sustainability by cutting the federal budget deficit by more than half by 2013. The budget provides the fiscal blueprint that will allow Congress to debate and adopt legislation that will reach these goals, but, by its nature, the Budget Resolution does not dictate the specifics of the legislation.

### **Investments for the Future**

**Health Care Reform** — Rising health care costs impose a real burden on families and businesses. The budget supports the President's goals for health care reform to address the related goals of reducing costs, improving quality, and expanding coverage to help the 46 million Americans who now lack health insurance. Like the President's plan, the budget assumes health care reform will be paid for. The budget leaves it to the relevant committees to determine the best way to accomplish that.



**Education** — Congress made significant investments in education earlier this year through the American Recovery and Reinvestment Act, which provided about \$100 billion for the Department of Education, additional funding for Head Start, and a new tax credit to help cover college costs. The budget builds upon those investments with further support for early childhood education, high standards and the tools to achieve them for elementary and secondary school students, and efforts to help more Americans obtain a college degree. The budget accommodates the President's proposals for new initiatives in early childhood education, effective approaches to making sure all children learn and achieve in school, and continuing to raise the maximum Pell Grant award.

**Energy Independence** — One of the four clear principles in the President's budget is to increase America's energy independence and energy security. Our budget embraces that goal. It builds on significant funding and tax incentives in the American Recovery and Reinvestment Act by increasing our investments in renewable energy and energy efficiency. It also allows for legislation that will promote energy independence over the long term.

### **Reversing the Republican Budget and Economic Legacy**

**Inheriting Deep Deficits and Economic Decline** — The previous Administration left behind a legacy of record budget deficits, soaring debt, and an economy deep in recession. President Obama and the 111th Congress took the first steps needed to restore the country's economic health by enacting the American Recovery and Reinvestment Act. The budget takes the second step by establishing the blueprint for future economic strength.

**Turning the Budget Around** — In 2001, the previous Administration inherited record budget surpluses – \$5.6 trillion projected over ten years – but squandered it all and more, leaving a record deficit of over \$1 trillion for 2009 alone. In contrast, our resolution cuts the deficit in half over four years, so that as the economy recovers the budget can get back on the road to recovery, as well.

### **Restoring Fiscal Sustainability and More Realistic Budgeting**

**Cuts the Deficit in Half** — The President set a firm goal of cutting the budget deficit in half over four years, and this budget does just that. It takes the record deficit that President Obama and the 111th Congress inherited in 2009, and cuts it to \$586 billion in 2013. The budget accomplishes this goal by restraining spending, requiring new initiatives to be paid for, and including investments in oversight and enforcement activities that yield valuable savings and ensure taxpayer dollars are spent wisely.

**More Realistic Deficit Estimates** — Like the President's plan, the budget includes some likely foreseeable costs that have been omitted from past budgets.

- **Overseas military operations** — The budget includes the President's request for 2010 and his placeholder estimates of \$50 billion per year thereafter, marking the first time the budget includes both a full-year estimate for overseas operations for the budget year and funds for future costs, thus providing a more realistic look at the likely costs and their effect on the deficit.
- **Emergency funding** — While we cannot know what emergency needs will occur, we can know that we are likely to face some emergency costs. The budget includes placeholder funding in case of emergencies that is not allocated for spending but is reflected in the budget totals.

### **Quote of the Day**

"You can fool all the people some of the time, and some of the people all the time, but you cannot fool all the people all the time."

— Abraham Lincoln

The Office of the House Majority Whip | H-329, The Capitol  
Washington, DC 20515 | p. (202)226-3210 | f. (202)225-9253